

10/622,419

Remarks/arguments:

This amendment is filed in response to the office action of January 23, 2008. In the last office action the examiner has again relied upon non-analogous prior art, disregarding the claims preamble which sets forth the environment for the test element. While applicant believes that the examiner is in error in his application of the references for the reasons fully set forth in a prior response, applicant reserves these argument for an appeal if necessary.

By the present amendment the previously submitted claims have been amended to more clearly set forth the structure of the base element, i.e. - a bowl shaped base element having a circumferential wall, a floor, and a centrally located receipt region in the form of a hub or short cylinder which extends away from the floor, the temperature indicating means being mounted on the inner surface of the circumferential wall. Clearly this combination of features is not shown in the prior art relied upon by the examiner, nor would it be obvious from Christy and/or St. Phillips.

Applicant has commented on the examiner's rejection as follows:

These additional features [that the receipt region is configured in a manner of a centrally disposed hub and the base element is bowl-shaped comprising ... a circumferentially enclosing wall carrying, on its inner side, the temperature indicator] will support and emphasize the feature "that the temperature indication means ... is spaced away from the central region" by clarifying that the wall of the central receipt region (hub) and the wall on which the temperature indicator is mounted (could be understood as the "rim") are different walls of the body structure. The nature of a hub is to be represent a part, e.g. of a wheel, that is of a completely different structure and spaced away from the rim.

... there would be [a] significant difference between temperature indicators used for thermal radiation on one hand and for microwave radiation on the other hand. Actually, both indicators work with completely different working principles ... Thus, the usage of a microwave temperature indicator will - in our view - definitely not render obvious the usage of the irreversible temperature indicator strip according to the present application.

Moreover, the Examiner should be enabled to recognize that the problem to be solved with the present application is to provide a simple and cheap means for fairly exact measuring the temperature within a dental burning oven. Thus, plastics or cardboard will be the materials to come into question for a cost-effective making of the base body.

This means that the liquid crystal indicator according to Christy (which further represents a reversible indicator) would not come into question because of the rather high costs of such devices.

Due to the manufacturing methods used for cardboard or plastic (injection molding or deep-drawing) bodies, in order to avoid tensions during cooling down of the body material, it is necessary to maintain a thickness of the walls of the body which is quite constant over the complete structure of the body, and which does not exceed a certain value (which is in the range below about 2 mm)

Thus, this substantially little thickness of the material of the walls will probably not provide for a thermal insulation being sufficient for cutting off thermal contact between the

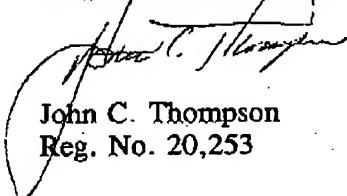
material within the central receipt region and a (theoretically, according to the Examiner's assumption) temperature indicating means mounted on the opposite side of the wall of said receipt region. On the other hand, in order to provide a sufficient thermal insulation between the material within the receipt region and the temperature indicator on the opposite side of the wall, it would be necessary to use significantly higher wall thickness of the material contravening the constraint of cost-effective manufacturing.

Therefore, the solutions according to the cited prior art documents (Christy, Philips) lead into a direction away from the inventive solution. These documents do not render obvious the solution according to the suggested new claim 1 of the present application.

New claim 22 is a translation of a corresponding claim which has been allowed by the Japanese patent office (Japanese patent 3,954,037). Applicants corresponding German patent application has also been allowed with claims similar to those initially presented in this application. Thus, where examination has been completed at other Patent Offices, the subject matter of this application has been found to be allowable. While it is admitted that this is not controlling on the US Patent Office, perhaps the allowance in other countries should indicate to the examiner that perhaps the claimed subject matter would not have been obvious from the cited reference.

In that all claims are deemed to be allowable for the reasons set forth above, the allowance of this application is respectfully requested.

Respectfully submitted,



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